UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,965	04/27/2001	Sally Kay Swart	163.1385US01	1666

23552 7590 01/11/2007

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
JASTRZAB, KRISANNE MARIE	
ART UNIT	PAPER NUMBER
1744	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/844,965	SWART ET AL.	
	Examiner	Art Unit	
	Krisanne Jastrzab	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 October 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *See Continuation Sheet* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,5,6,8,10,14,18-25,29,31,33,36-40,42,43,45-47,55,56,58-60,67,68,70-72,75 and 76* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continuation of Disposition of Claims: Claims pending in the application are 1,5,6,8,10,14,18-25,29,31,33,36-40,42,43,45-47,55,56,58-60,67,68,70-72,75 and 76.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 29 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original disclosure fails to support a conveyor which transports all of the medical device, the first station and the dryer, as now claimed in the amended claim language.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14, 21, 23, 29, 33, 36-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 14, 21 and 23, these claims remain vague and indefinite for failing to properly further limit the apparatus claims from which they depend because they recite method phraseology.

With respect to claim 29, this claim is found to be vague and indefinite because it is unclear as to how the convenyor could transport all of the device, the first station and the dryer. Clarification is required.

With respect to claim 33, this claim is found to be vague and indefinite because it depends from claim 32 which has been canceled.

With respect to claims 36-39, these claims remain vague and indefinite because they fail to require any further structural limitation of the apparatus previously recited in the claims from which they depend. They are already "adapted and configured" as set forth.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 5-6, 8, 10, 14, 18-25, 29, 31, 33, 36-40, 42-43, 45-47, 55-56, 58-60, 67-68, 70-72 and 75-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Boucher U.S. patent No.'s 3,708,263 or 3,837,805 in view of Fujita US Patent No. 5,514,346 and any of Halaka U.S. patent No. 6,071,480 or DiGeronimo U.S. patent No. 4,494,357 or Ramachandran U.S. patent No. 4,720,374.

The Boucher patents teach substantially the invention as claimed, namely the treatment of medical or dental instruments through a plurality of treatment stations including sonicated liquid treatment and rinse, followed by heated air drying and irradiation. The articles to be treated are placed in a basket to maintain their position during treatment and are conveyed from station to station. The Boucher patents are silent as to the use of a moveable probe capable of manual sonic cleaning. See the figures, column 7, line 62 through column 10, line 3.

Fujita teaches the use of a dryer including a source of sterilizing gas, such as chlorine dioxide for enhanced drying of a plurality of articles subject to potential bacterial growth because the drying with a sterilizing gas provides optimized drying with preventive treatment against bacterial growth. See column 1, lines 5-10, column 2,

lines 1-11, column 3, lines 42-54, column 4, lines 1-10, column 5, lines 18-25 and column 6, lines 61-67.

All of Halaka, DiGeronimo and Rmachandran teach the well recognized efficacy of moveable sonicators or probes for the provision of ultrasonic energy in liquid containing treatment devices, as well as their equivalence to wall mounted transducers. See column 1, lines 15-40 and the figures of Halaka, Fig. 1 and column 2, lines 40-45 of DiGeronimo and column 9, line 19 through column 10, line 2 of Ramachandran

It would have been obvious to one of ordinary skill in the art to substitute the dryer of Fujita for that of the Boucher patents because it would effectively provide both drying and sterilizing functions for a variety of articles. It would further have been obvious to configure the supply means to employ and known and recognized delivery means such as pressure release valves.

Additionally, it would have been obvious to one of ordinary skill in the art to substitute a sonicator or probe as taught in any of Halaka, DiGeronimo or Ramachandran for the wall mounted transducers of the Boucher patents because of their recognized equivalence in the provision of sonic energy within a treatment liquid.

It is further noted that the Boucher references teach as least two sonicating stations and it would have been well within the purview of one of ordinary skill in the art to art to provide as many as determined to be required to optimize treatment of the article.

Claims 1, 5-6, 8-12, 14 and 18-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moyers U.S. patent No. 6,090,213 in view of Fujita U.S. patent No.

5,514,346 and any of of Halaka U.S. patent No. 6,071,480 or DiGeronimo U.S. patent No. 4,494,357 or Ramachandran U.S. patent No. 4,720,374 (all as applied above).

Moyers teaches an automated cleaning system configured with a variety of stations. Ultrasonic cleaning with liquid circulation is achieved within a tank means wherein the object being treated is immersed. The object is washed, rinsed, cleaned and then dried by the application of heated air circulated by a blower. Each treatment can be performed in a separate station. See Fig. 1, and column 3, line 3 through column 4, line 5 and the claims.

It would have been obvious to one of ordinary skill in the art to substitute the dryer of Fujita for that of Moyers because it would effectively provide both drying and sterilizing functions for a variety of articles. It would further have been obvious to configure the supply means to employ and known and recognized delivery means such as pressure release valves.

Additionally, it would have been obvious to one of ordinary skill in the art to substitute a sonicator or probe as taught in any of Halaka, DiGeronimo or Ramachandran for the wall mounted transducers of Moyers because of their recognized equivalence in the provision of sonic energy within a treatment liquid.

Claims 31-33, 36-47, 55-56, 58-60, 67-68, 70-72 and 75-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moyers, Fujita and any of Halaka, DiGeronimo or Ramachandran as applied to claims 1, 5-6, 8-12, 14 and 18-25 above, and further in view of Aussenac.

Aussenac clearly teaches the inclusion of a radiation source within a system comparable to that of the combination above, namely treatment of articles with a series of sonification, liquid circulation, rinsing and drying, wherein the radiation source (UV) is applied to enhance both sterilization and heating of the liquids utilized in the system.

It would have been obvious to one of ordinary skill in the art to include the radiation means as taught in Aussenac within the system of the combination above, because it would enhance both the liquid treatment with heating and act to sterilize within the system as well.

Response to Arguments

Applicant's arguments with respect to claims 1, 5-6, 8, 10, 14, 18-25, 29, 31, 33, 36-40, 42-43, 45-47, 55-56, 58-60, 67-68, 70-72 and 75-76 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne Jastrzab whose telephone number is 571-272-1279. The examiner can normally be reached on Mon.-Thurs. 6:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Krisanne Jastrzab
Primary Examiner
Art Unit 1744

January 5, 2007